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INFO RUEHBJ/AMEMBASSY BEIJING PRIORITY 6219
RUEHLM/AMEMBASSY COLOMBO PRIORITY 6543
RUEHKA/AMEMBASSY DHAKA PRIORITY 1806
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 4569
RUEHLO/AMEMBASSY LONDON PRIORITY 5806
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 2093
RUEHCI/AMCONSUL KOLKATA PRIORITY 3939
RUEHGV/USMISSION GENEVA PRIORITY 1955
RUCNDT/USMISSION USUN NEW YORK PRIORITY 3056
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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000007

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E.O. 12958: DECL: 01/02/2017

TAGS: [PGOV](#) [PTER](#) [KDEM](#) [NP](#)

SUBJECT: NEPAL: CONSTITUTION AMENDED: NEPAL TO BE A
REPUBLIC, ELECTION MORE PROPORTIONAL

REF: A. 07 KATHMANDU 2118

[1](#)B. 07 KATHMANDU 2085

Classified By: Ambassador Nancy J. Powell. Reasons 1.4 (b/d)

Summary

[1](#)1. (C) On December 28, Nepal's Interim Parliament amended the Interim Constitution to declare that Nepal will be a federal republic, with implementation at the first meeting of the Constituent Assembly (CA). The set of amendments, the third since the Interim Constitution was adopted in January 2007, also make the CA election formula more proportional. In addition, it postponed the election deadline to mid-April. The Six-Party Alliance and the Maoists had agreed to the amendments in the 23-Point Agreement signed December 23 (Ref A). According to the Parliamentary Secretariat, the Parliament will probably make the necessary revisions to the CA Members Election Act on January 3.

Constitution Amended: Nepal Will Be A Federal Republic

[1](#)2. (U) Nepal's Interim Parliament approved a package of amendments to the Interim Constitution December 28 by an overwhelming majority of 270 in favor, 3 against and 47 absent. The votes in support were well in excess of the two-thirds majority of Members of Parliament (MPs) present required for an amendment. Most attention was focused on the changes to Article 159. Notably, a new Sub-Article 1 was adopted which states: "Nepal will be a federal, democratic, republican state. Sub-Article 2 adds: "The implementation of a republic will be made at the first meeting of the Constituent Assembly." From its inception in January 2007, the Interim Constitution, which was amended in March and June, had provided in Sub-Article 3: "Notwithstanding anything contained elsewhere in this Constitution, the first meeting of the Constituent Assembly shall decide, by a simple majority, whether the institution of monarchy shall be retained or not." A new Sub-Article 3 states: "The King shall have no rights regarding state affairs." New Sub-articles 3(a) and 3(b) grant all state powers to the Prime Minister -- until the implementation of the republic.

Election Formula Made More Proportional

¶3. (U) The set of amendments have also instituted a change in the formula for the Constituent Assembly (CA) election. Article 63 now provides that, instead of an equal number of seats (i.e., 240) being allocated under first-past-the-post and proportional systems, there will be 240 in the former category and 335 in the latter. The Interim Constitution was also amended to increase the number of appointed seats from 17 to 26 members. As a result, the total size of the Assembly has increased from 497 to 601 members. In addition, the Interim Parliament decided, as expected, to amend Article 33 and postpone the deadline for an election. The MPs deleted the reference to the end of the Nepali month of Mangsir (December 15, 2007), but left the reference to the end of the Nepali Year 2064. (Note: April 12, 2008 is the last day. End note.)

Amendments Mandated By 23-Point Agreement

¶4. (C) The amendments that the Parliament adopted December 28 were spelled out in points 1-5 of the 23-Point Agreement which the Six-Party Alliance and the Maoists hammered out on December 23, after months of negotiations. The Government had to withdraw the previous set of constitutional amendments which it had tabled December 15 (Ref B), but the outcome of the vote, according to Nepali Congress MPs, was never in question. Amendments offered to the Government draft by the minor parties, several of which objected to the Interim Parliament making such a fundamental decision with respect to

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the monarchy, were quickly dispensed with on December 28 after debate.

CA Members Act To Be Amended

¶5. (C) Manohar Bhattarai, the General Secretary of the Parliamentary Secretariat, told Emboff January 2 that he is hopeful the Parliament will pass the necessary revisions to the CA Members Election Act on January 3. The Government has already tabled the amendment bill. In the interest of saving time, the bill has not been referred to committee. Chief Election Commissioner Pokhrel informed the Ambassador December 28 that the MPs had no desire to re-open the complicated proportional electoral quotas for women and various ethnic minorities and other disadvantaged groups. As a result, he anticipated that very little would have to be amended and the process could move quickly.

Comment

¶6. (C) Contrary to widespread press reports, the December 28 set of amendments to the Interim Constitution do not mean that Nepal is now a republic. The abolition of the country's monarchy will not take place until the Constituent Assembly meets, most likely at the very end of April or in May, assuming there is an election. The good news is that the amendments, coupled with the Maoists rejoining the cabinet, indicate that Maoist participation and, therefore, an election itself are more likely. Many obstacles will still have to be overcome, but Nepal is certainly one step closer to reestablishing a popularly elected parliament and government.

POWELL